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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,070	06/27/2001	Bobby Joe Caine	CON-1032US(COP-09322.0-00	4243

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EXAMINER

SHAH, AMEE A

ART UNIT PAPER NUMBER

3625

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/893,070

Applicant(s)

CAINE, BOBBY JOE

Examiner

Amea A. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment filed May 11, 2006, has been entered. Claims 1 and 13 have been amended. Claims 1-6 and 13-20 are pending.

### ***Response to Arguments***

Applicant's arguments filed May 11, 2006, have been fully considered but they are not persuasive. Applicant argues essentially that the type of stored data, i.e. seismic data, is not non-functional, but should be given patentable weight as a claim limitation and that since the prior art Gorham does not teach or suggest specifically using seismic data, it does not teach or suggest the claim limitations (Remarks, pages 8-10). The Examiner disagrees.

As discussed in the prior office action and below, Gorham discloses an article and a method of manufacturing an article of linking compressed data files to a respective one of a plurality of data lines, wherein selection of one lines from a map displayed by a computer causes an image corresponding to the respective compressed files to be displayed (see, e.g., ¶¶ 0005, 0007, 0030, 0034, 0035 and 0038). Gorham does not expressly show wherein the data is seismic data. However, this difference is only found in the nonfunctional descriptive material stored on the article of manufacture and is not functionally involved in the linking step recited. Data related to seismic data is not functionally related to the substrate of the article of manufacture. Additionally, the linking of files to data lines would be performed in the same manner regardless of whether the data within the files were seismic or other data. Thus, this non-functional descriptive material will not distinguish the claimed invention from the prior art Gorham in terms

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of patentability. See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowrey*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

While Applicant argues that *Gulack* cautions against a “liberal use of ‘printed matter rejection,’” this is not applicable in this instance. The non-functional descriptive language does not pertain to printed matter, but rather to data, and does not alter how the computer functions or how the step of linking is performed.

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, see *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959). A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (Bd. Pat. App. & Inter. 1987). Thus the structural limitations of claim 1, including a medium with files are disclosed in Gorham as described herein.

In view of the foregoing, the previous rejection of all claims as mailed on February 14, 2006, is sustainable. This is a FINAL office action.

#### ***Examiner Note***

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in

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entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 U.S.C. §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 4 – 6, 13 - 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorham, U.S. Pat. App. Pub. No. 2002/0005866 A1 (hereafter referred to as “Gorham”) in view of Chui, U.S. Pat. No. 5,841,473 (hereafter referred to as “Chui”).**

Referring to claim 1 and related claim 13. Gorham teaches a method of manufacturing a computer readable medium for marketing of geophysical seismic data, the method comprising the step of linking each of said compressed seismic data files to a respective one of a plurality of surface seismic data lines, wherein selection of one of said surface seismic data lines from a map displayed by a computer system causes a geophysical image corresponding to said receptive one of said compressed seismic data files to be displayed (see, at least, pages 1-3, ¶¶0005, 0007, 0030, 0034, 0035 and 0038).

While Gorham does not specifically teach seismic data, it does teach the method and apparatus being applicable to maps (page 2, ¶0030). However, this difference is only found in the non-functional descriptive material. The type of stored data such as “seismic data” is considered to be non-functional descriptive material and is given little patentable weight (MPEP

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2106). The phrase(s) and or word(s) are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Gorham. Thereby, the non-fictional descriptive material is directed only to the content of the data (i.e. seismic data - which is stored data) and does not affect either the structure or method/process of Gorham, which leaves the method and system unchanged. Moreover, the storing of data regardless of content was old and well known at the time of the applicant's invention and therefore one of ordinary skill would have been motivated to store their data/information after each use. In that manner, the user does not have to recreate the data/information each time, which will improve productivity.

While Gorham does disclose a jpeg, the reference does not specifically disclose a method and article of converting data in a plurality of full seismic data files from a vector format to a computer graphic format to create a plurality of corresponding graphic image; compressing of graphic images (jpeg). Chui, in the same field of endeavor of images, teaches a method and article of converting data in a plurality of full seismic data files from a vector format to a computer graphic format to create a plurality of corresponding graphic image; compressing of graphic images (jpeg) (see, at least, Figs. 5A and 5B, col. 1, lines 9-67 and col. 2, lines 1-8).

At the time of invention, it would have been obvious to one of ordinary skill in the art to have modified provided the method and article of Gorham with the article and method of Chui to have enabled a method for and article of manufacturing a computer readable medium for marketing of geophysical seismic data as recited in claims 1 and 13 comprising the steps of converting data in a plurality of full seismic data files from a vector format to a computer graphic format to create a plurality of corresponding graphic image and compressing of graphic images

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(jpeg). [see at least Col 1, lines 9 – 67 and Col 2, lines 1 – 8 and Figures 5a and b). Doing so would enable the user to ensure that the files when queried will be associated with the correct file and thereby eliminate any possible confusing that could be caused by retrieving an incorrect file as well as ensuing correct displaying of geographic information such as a map of a state.

Referring to claim 4 and related claims 5 and 20. Gorham in view of Chui teaches an article of manufacture wherein said references are respectively embedded in said compressed seismic data files and are visible in said corresponding geophysical display (Gorham, page 1, ¶0005).

Referring to claim 6 and related claim 17. Gorham in view of Chui teaches a method and article of manufacture wherein each of said plurality of compressed seismic data files m created from corresponding ones of said full seismic data files using a lossy compression technique and (claim 14) wherein said step of compressing is repeated until said compressed seismic data file is within a predetermined size and (claim 16), wherein said compressed seismic data file is in a Joint Photographic Experts Group (JPEG) format (Chui, col. 1, line 40 through col. 2, line 10). Moreover, these compression techniques were old and well known at the time of the applicant's invention and thereby one of ordinary skill in the art would have been motivated to apply these old and well-known compression techniques to preclude excessive large storage, processing and communication capabilities.

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**Claims 2, 3, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gorham and Chui as applied to claims 1 and 13 above, and further in view of ESRI.com, dated May 4, 2001 and captured via the WayBackMachine ([www.archive.org](http://www.archive.org)) (hereafter referred to as "ESRI").**

Referring to claim 2 and related claim 18. Gorham in view of Chui discloses the article and method of claims 1 and 13, as discussed above, but does not specifically disclose a method or article wherein said medium is a removable medium selected from the group consisting of: a compact disk (CD); a digital versatile disk (DVD), a magneto-optical (MO) disk; a magnetic tape; a magnetic disk; a micro drive; and a compact flash card.

ESRI, in the same field of endeavor of displaying maps and geological data, teaches an article and method of manufacture wherein said medium is a removable medium selected from the group consisting of: a compact disk (CD); a digital versatile disk (DVD), a magneto-optical (MO) disk; a magnetic tape; a magnetic disk; a micro drive; and a compact flash card (page 26).

At the time of invention, it would have been obvious to one of ordinary skill in the art to have modified provided the method and article of Gorham in view of Chui with the article and method of ESRI to have enabled a method for and article of manufacturing a computer readable medium for marketing of geophysical seismic data as recited in claims 1 and 13 wherein said medium is a removable medium selected from the group consisting of: a CD; a DVD, an MO disk; a magnetic tape; a magnetic disk; a micro drive; and a compact flash card. Doing so would enable a variety of computer systems to be able to access the data in the most compatible format.



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Referring to claim 3. Gorham in view of Chui discloses the article of claim 1, as discussed above, but does not specifically disclose a method or article wherein said medium is fixed within a computer system and receives said files from another computer. ESRI, in the same field of endeavor of displaying maps and geological data, teaches an article of manufacture, wherein said medium is fixed within a computer system and receives said files from another computer (page 16 and 46 - 50).

At the time of invention, it would have been obvious to one of ordinary skill in the art to have modified provided the method and article of Gorham in view of Chui with the article and method of ESRI to have enabled an article of manufacturing a computer readable medium for marketing of geophysical seismic data as recited in claim 1 wherein said medium is fixed within a computer system and receives said files from another computer. Doing so would enable computer systems to be able to access the data in a faster and more convenient manner, and be able to share information more efficiently and quickly.

Referring to claim 19. Gorham in view of Chui discloses the method of claim 13, as discussed above, but does not specifically disclose a method wherein said step of storing comprises transmitting said compressed seismic data files, said references, and said map via a computer network for storage in a fixed medium associated with a broker computer. ESRI, in the same field of endeavor of displaying maps and geological data, teaches a method wherein said step of storing comprises transmitting said compressed seismic data files, said references, and said map via a computer network for storage in a fixed medium associated with a broker computer (pages 38 - 60).

At the time of invention, it would have been obvious to one of ordinary skill in the art to have modified provided the method and article of Gorham in view of Chui with the article and method of ESRI to have enabled a method for marketing of geophysical seismic data as recited in claim 13 wherein said step of storing comprises transmitting said compressed seismic data files, said references, and said map via a computer network for storage in a fixed medium associated with a broker computer. Doing so would enable computer systems to be able to access the data in a faster and more convenient manner, and be able to share information more efficiently and quickly.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stringer et al., U.S. Pat. No. 5,987,125, discloses a method for communicating seismic data including storing the data in an encrypted file, transfer the data between computers and decrypting the data to make it available to the other computer (*see, e.g., cols. 2-4*).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogesh Garg can be reached on 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

June 29, 2006

  
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